



1 WHEREAS, on August 31, 2009, Plaintiff filed the First Amended Complaint in the  
2 Superior Court of the State of California in and for the County of Santa Clara;

3 WHEREAS, on October 1, 2009, Defendants timely removed the case to this Court  
4 pursuant to its federal question jurisdiction under 28 U.S.C. § 1441(a);

5 WHEREAS, on October 8, 2009, Defendants filed a Motion to Dismiss Counts 2, 3, 4 and  
6 5 of the First Amended Complaint;

7 WHEREAS, on October 16, 2009, this case was reassigned to the Honorable Claudia  
8 Wilken for all further proceedings;

9 WHEREAS, on October 20, 2009, this Court entered a Case Management Scheduling  
10 Order for Reassigned Civil Case (“Case Management Order”), which set the hearing on  
11 Defendants’ Motion to Dismiss for December 3, 2009;

12 WHEREAS, the Case Management Order stated that Plaintiff’s Opposition brief to  
13 Defendants’ Motion to Dismiss shall be filed by November 12, 2009, and that Defendants’ Reply  
14 brief in support of the Motion to Dismiss shall be filed by November 19, 2009;

15 WHEREAS, the parties have met and conferred and agreed to continue the hearing date  
16 for Defendants’ Motion to Dismiss due to a scheduling conflict on behalf of DeviceVM’s lead  
17 counsel;

18 NOW, THEREFORE, the undersigned parties hereby stipulate and agree, and respectfully  
19 request that the Court enter an order, as follows:

- 20 1. The hearing on Defendants’ Motion to Dismiss shall be continued to December 10,  
21 2009, at 2 p.m.;
- 22 2. Plaintiff’s Opposition brief shall remain due by no later than November 12, 2009;
- 23 3. Defendants’ Reply brief shall remain due by no later than November 19, 2009.

24 IT IS SO STIPULATED.

25 O’MELVENY & MYERS LLP

26 Dated: November 5, 2009

27 By: /s/  
Stephen J. Akerley

28 Attorneys for Defendants DeviceVM, Inc.  
and Benedict Chong

Dated: November 5, 2009

Attorneys for Plaintiff Phoenix Technologies,  
Ltd.

By: \_\_\_\_\_ /s/\_\_\_\_\_  
Stephen J. Akerley

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Charles W. H.

The Honorable Claudia Wilken  
United States District Judge